

July 12, 2006

BEFORE THE
UNITED STATES DEPARTMENT OF ENERGY
WASHINGTON, D.C.

10 C.F.R. Part 490)	
Alternative Fuel Transportation)	RIN 1904-AB66
Program; Alternative Compliance;)	
Notice of Proposed Rulemaking)	

COMMENTS OF THE ELECTRIC DRIVE TRANSPORTATION ASSOCIATION

These comments on the Department of Energy's (DOE or Department) Notice of Proposed Rulemaking, *Alternative Fuel Transportation Program: Alternative Compliance*, Federal Register, Vol. 71, No. 121 (June 23, 2006), are presented on behalf of the Electric Drive Transportation Association (EDTA). We also intend to provide additional written comments as specified in the Notice of Proposed Rulemaking.

EDTA is an industry association that promotes the adoption of electric drive transportation technologies, which include battery electric, hybrid and fuel cell electric vehicles. Our membership is comprised of representatives from the electric utility industry, vehicle manufacturers, universities, battery and component manufacturers, state and local governments, and others interested in furthering the use of electric drive systems to improve the energy efficiency and reduce the environmental and energy security impacts of transportation.

BACKGROUND

In the June 23, 2006 Federal Register Notice (Notice) for the *Alternative Fuel Transportation Program: Alternative Compliance*, DOE proposes to implement the Alternative Compliance Waiver created under Section 703 of the Energy Policy Act of 2005. The provision amends the State and Alternative Fuel Provider Fleet Program created under the Energy Policy Act of 1992 to permit covered fleets to petition for a waiver of the alternative fueled vehicle requirements and undertake fuel reduction strategies that are not recognized in the existing program.

The creation of an alternative compliance waiver in the State and Alternative Fuel Provider Fleet Program addresses some long-standing deficits in the program. In particular, by allowing covered fleets the ability to use hybrid vehicles, their ability to meet their petroleum reduction goals is enhanced and the development of these clean and efficient technologies is accelerated.

EDTA believes that, overall, the Proposed Rule effectuates the intent of the provision by diversifying compliance options, promoting new advanced vehicle technologies and accelerating achievement of petroleum displacement requirements. However, there are

areas of the proposed rule in which clarification will be useful to covered fleets and to achieving actual petroleum reductions. The following points outline our priorities for the program and note where the proposed rule might be modified to more effectively achieve them.

I. The proposed rule should promote the greatest flexibility for alternative compliance while ensuring the maximum petroleum use reductions and clean technology advancement.

We agree with proposed §490.802 that the motor fuel consumption reduction should be based on the fleet's cumulative inventory of Alternative Fuel Vehicles (AFVs).

II. While preserving the case-by case approach endorsed by the proposed rule (at 36034), the proposed rule should provide additional certainty to covered fleets participating in the program in the following areas:

- a. Under Proposed §490.803, application for waiver requires submission of a detailed strategy to reduce petroleum consumption and the amount of petroleum reduction anticipated by each action or strategy. These must come from verifiable and credible sources. We recommend that DOE provide guidance, as available, on fuel displacement of technologies likely to be adopted by covered fleets, such as use of low-speed electric vehicles.

DOE does not need to define the fuel-savings associated with every permissible action. However, by establishing, and updating, guidance on likely waiver activities, DOE could materially lower one hurdle to participation in the alternative compliance program.

- b. Under Proposed §490.803(d) (2), petroleum-reduction strategies that are “transportation related” are not permitted. In support of maximum petroleum reduction and promotion of alternative technology approaches, we would urge the Department to clarify that “transportation related” activities include the use of certain non-road vehicles, such as hybrid or battery electric forklifts, to recognize the significant petroleum savings and cross-over technology development offered by these vehicles.
- c. EDTA supports the Proposed §490.805(a) (1) rollover of credits as means to support participation in the program. However, further clarity is needed in the standard for determining eligibility for the credit rollover. The standard, that the covered fleet must “demonstrate that it did everything under its control” to meet its petroleum reduction requirement, is very broad and creates the potential for a standard that, in practice, is unattainable. Additional guidance on how applicants’ “good faith” will be measured in the case of a fuel savings shortfall would be an important improvement to the proposed rule.

By recognizing a wider variety of petroleum consumption reduction technologies, including diverse electric drive products (*e.g.*, passenger cars, low-speed electric vehicles, medium and heavy-duty vehicles, non-road vehicles), the alternative compliance waiver flexibility is a significant new tool for covered fleets. The resulting fuel reductions will also provide the technology promotion and air quality protection that the Congress intended when it created the program. EDTA looks forward to working with the Department of Energy to finalize a rule that provides both flexibility and certainty for covered fleets putting together new strategies and ensures that maximum petroleum reductions are achieved.